

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

MAR 21 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CC Docket No. 92-297

In the Matter of

Rulemaking to Amend Part 1 and Part 21  
of the Commission's Rules to  
Redesignate the 27.5 - 29.5 Ghz Frequency  
Band and to Establish Rules and Policies  
for Local Multipoint Distribution Service

HUGHES SPACE AND COMMUNICATIONS COMPANY'S REQUEST FOR  
MEMBERSHIP ON ADVISORY COMMITTEE AND COMMENTS ON  
NEGOTIATED RULEMAKING PROPOSAL

I. Introduction.

Hughes Space and Communications Company ("HSC") submits these comments in support of the Commission's proposal in its Public Notice of February 11, 1994 to establish an Advisory Committee to negotiate regulations defining the technical rules appropriate for sharing the 27.5 -- 29.5 Ghz band by the proposed Local Multipoint Distribution Service ("LMDS") and by satellite services. The Commission has identified HSC as a potential representative on the Advisory Committee. HSC confirms its interest in participating, and requests that it be allowed to participate, if the Commission proceeds with an Advisory Committee.

HSC is a leading manufacturer of communications satellites in the fixed satellite service ("FSS") bands, both C band (6/4 Ghz) and Ku band (14/11 Ghz). HSC's affiliate, Hughes Communications Galaxy, Inc. ("HCG") is the largest operator of

No. of Copies rec'd  
List ABCDE

014

commercial communications satellites in the United States: it has ten FSS satellites and one DBS satellite in orbit and has plans to launch two more satellites in the near future.

HCG has filed an application for a two-satellite system, to be known as "Spaceway," that would operate in a portion of the 27.5 --29.5 Ghz band. HCG's proposed system essentially would be a space-based telecommunications superhighway. It would offer a wide range of universal, high data-rate, bandwidth-on-demand services, complement the proposed National Information Infrastructure (NII), and help to meet the needs of those who will not be physically connected to the terrestrial NII.

## **II. HSC Supports the Commission's Proposal.**

Throughout this proceeding, the participants have debated whether or not satellite and LMDS users of the 27.5 to 29.5 Ghz band can share the spectrum on a co-frequency, co-coverage area basis. As HSC noted in its ex parte submission in this proceeding dated January 12, 1994, if LMDS proves to be commercially viable, LMDS service may commence before most commercial satellite services commence at Ka band. It is therefore essential to resolve the issues about the compatibility of LMDS and satellite services now, rather than addressing interference issues once the two services begin to develop in the same band. For those reasons, HSC urged the Commission to institute a proceeding that requires LMDS proponents and satellite interests to negotiate these issues under the oversight of the Commission.

HSC supports the Commission's proposal to establish an Advisory Committee that will allow the parties to identify whether and how LMDS can coexist with satellite use in the 27.5 to 29.5 Ghz band, and to seek consensus on what types of spectrum sharing criteria are appropriate.

HSC believes that the Advisory Committee, in considering appropriate spectrum sharing criteria, must consider not only the currently proposed uses of the Ka band, but also the uses that may develop at 27.5 -- 29.5 Ghz in the future. In other words, it is not enough to consider only HCG's Spaceway application, the Committee must also consider other possible geostationary satellite services at Ka band. In order to accommodate the mass deployment of LMDS and satellite terminals, the Committee also must consider ways to allow LMDS and satellite users to coexist without the need for prior coordination. HSC already has had preliminary discussions with certain LMDS proponents on these types of matters and looks forward to engaging in continued efforts.

The Commission has identified HSC as a potential representative on the Advisory Committee. As an affiliate of a Ka band satellite system applicant, and as a satellite manufacturer itself, HSC agrees that it would be significantly affected by the proposed spectrum sharing rules. HSC also agrees that it should be permitted to participate on the Advisory Committee and hereby requests membership. No other party would adequately represent the interests of HSC or the HSC affiliate whose Ka band satellite system application is pending. HSC hereby confirms that it is committed to work in good faith with the other participants to address the development of the spectrum sharing rules under consideration. HSC anticipates identifying its representative on the Committee shortly.

HSC is concerned, however, that one aspect of the Commission's proposal may have the unintended consequence of delaying the ultimate resolution of these issues.

In its Public Notice, the Commission indicated that if the Advisory Committee is able to accommodate all proposed uses of the 27.5 -- 29.5 Ghz band, then

the Committee should propose specific rules to effectuate a sharing plan. HSC supports that approach. The Commission then suggested that the Committee also should reach consensus on an analysis of how the benefits of the proposed sharing plan would outweigh other options. To this end, the Commission requested an analysis of the number of jobs that would be created by the different services that could be permitted in the band, the economic growth that can be expected from those services, the amount of investment in the NII that can be expected by these uses of the 27.5-29.5 Ghz band, the degree of competition that can be expected in a given service, and other factors.

HSC agrees that this information may be helpful to allow the Commission to analyze the costs and benefits of any spectrum sharing plan that may be adopted. However, HSC is concerned that requiring the parties to the negotiated rulemaking to reach consensus on the costs and benefits of each other's proposals will unnecessarily complicate and extend the length of the negotiated rulemaking process. In essence, it would require the parties to negotiate their business plans with one another after having successfully worked out a spectrum sharing plan.

As an alternate approach, HSC suggests that the Commission allow the participants to prepare and submit their own analyses of these issues after consensus is reached on the spectrum sharing rules. This would allow parties to address the proposed services on which they are most knowledgeable, and will avoid having the parties negotiate the economic consequences of the proposed uses of the Ka band.

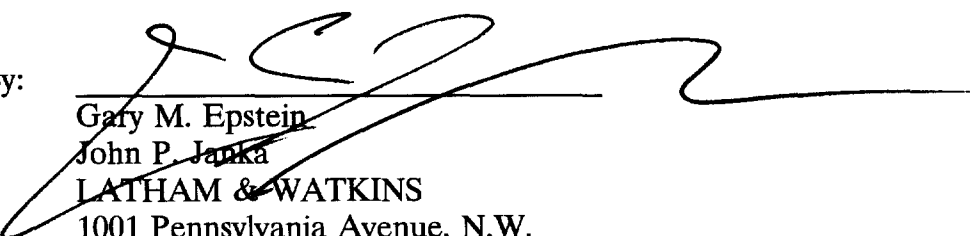
III. Conclusion.

HSC supports the Commission's proposal to hold a negotiated rulemaking and to allow HSC to participate, but urges the Commission to slightly modify the scope of the proceeding as outlined above.

Respectfully submitted,

HUGHES SPACE AND COMMUNICATIONS COMPANY,  
a unit of Hughes Aircraft Company

By:



Gary M. Epstein

John P. Janka

LATHAM & WATKINS

1001 Pennsylvania Avenue, N.W.

Suite 1300

Washington, D.C. 20004

(202) 637-2200

March 21, 1994